

EXHIBIT 13

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1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3 -----x
4 SONOS, INC.,

5 Plaintiff,
6 vs. Case No. 3:21-CV-07559-WHA
7 GOOGLE LLC,
8 Defendant.

9 -----x
10 -AND-
11 -----
12 UNITED STATES DISTRICT COURT
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA
14 -----x
15 GOOGLE LLC,

16 Plaintiff,
17 vs. Case No. 3:20-CV-06754-WHA
18 SONOS, INC.,
19 Defendant.

20 -----x
21 **HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY**
22 **SOURCE CODE**

23 REMOTE VIDEO TAPED DEPOSITION BY VIRTUAL ZOOM OF
24 DAN SCHONFELD, PH.D.
25 Friday, February 3, 2023
Reported By: Lynne Ledanois, CSR 6811
Job No. 5698162

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1 playing audio on speakers and thus are all part of the 10:37AM
2 same endeavor. For example, SA-2 and SA-3 Amplifiers
3 are both part of the Lifestyle family to which the
4 Bose systems belong."

5 And I would just simply add that my 10:37AM
6 analysis of the Bose system is not based on
7 anticipation.

8 Whether it was actually combined in a
9 particular way or not, this is not part of my
10 analysis. 10:38AM

11 All I simply point out, that they are all
12 part of the Bose audio systems available and a
13 person of skill would at least consider other Bose
14 products in combination with the various other audio
15 products provided by Bose. 10:38AM

16 Q But you're not aware of anybody that
17 actually combined those Bose products into a single
18 system; correct?

19 A I would -- I didn't check for this. I'm not
20 sure offhand and there may be something in my report 10:39AM
21 in the documents that I relied on that talks about it.

22 I know that there are certain combinations
23 like the ones of the amplifiers that are described.
24 Whether the entirety of the system was actually
25 implemented in this way or not, I'm not sure. I 10:39AM

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1 over the past ten, 15 minutes.

1:09PM

2 BY MR. SMITH:

3 Q Is the same true for infringement by use
4 of the computing device or by making the computing
5 device?

1:09PM

6 MR. KAPLAN: Objection to form.

7 THE WITNESS: Yes, it's my understanding
8 it would be the same because if you were to use it,
9 you're still not be capable of doing it without also
10 using the auxiliary structure such as the additional 1:10PM
11 zone players.

12 BY MR. SMITH:

13 Q Now, if we can turn to Paragraph 152 of
14 your report, and this is about NIA Number 2.

15 MR. SMITH: Dr. Schonfeld, I think the 1:10PM
16 report may be on the mic again.

17 MR. KAPLAN: There was a little bit of
18 feedback, Dan, but it's gone now.

19 (Reporter clarification.)

20 THE WITNESS: I have the paragraph in 1:11PM
21 front of me.

22 BY MR. SMITH:

23 Q If you do down two-thirds of the way down,
24 there is a sentence that says, "Although in my
25 opinion, this non-infringing alternative would be 1:11PM

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1 commercially acceptable to users." 1:11PM

2 Do you see that?

3 A Yes, I do.

4 Q So it's your opinion that NIA Number 2 is
5 commercially acceptable to users; is that correct? 1:11PM

6 A It is my opinion that this non-infringing
7 alternative would be acceptable to users.

8 Q And if you turn to Paragraph 159, this is
9 talking about NIA Number 3; correct?

10 A Yes. 1:12PM

11 Q And is it your opinion that NIA Number 3
12 is commercially acceptable to users?

13 A So yes, it's just my opinion that whether
14 you name something morning, afternoon versus blue and
15 red, there is not a significant change in the user 1:13PM
16 point of view.

17 As I stated in the report, [REDACTED]

18 [REDACTED]

19 [REDACTED], [REDACTED]

20 [REDACTED] 1:14PM

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 So in my opinion, based on that statistic,
25 it seems to me like getting rid of groupings 1:14PM

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1 altogether would also be commercially acceptable to 1:14PM
2 most users.

3 And so that certainly would apply to both
4 non-infringing alternatives 2 and 3.

5 Q And do you typically provide opinions on 1:14PM
6 whether or non-infringing alternatives are
7 commercially acceptable?

8 A Only on the technical side. So in other
9 words, there is also an economic prong as to whether
10 it's commercially acceptable. And I do not provide an 1:15PM
11 opinion on that issue. I think that's addressed by
12 the damages expert.

13 Q But you do address commercial
14 acceptability from the technical perspective; is
15 that correct? 1:15PM

16 A Quite frequently, yes.

17 Q And if we turn to Paragraph 178, this is
18 discussing an additional non-infringing alternative
19 that's called "no identification of group to zone
20 scenes"; is that correct? 1:15PM

21 A Let me take back what I just said a second
22 ago. I think you asked me about...

23 Q I don't want to waste any time on the last
24 one. But, yes, I think you were talking about this
25 NIA as opposed to overlap, okay? 1:16PM

1 A Sorry about that, but just to summarize it, 1:16PM
2 what I just said previously with regard to the colors
3 would be applicable to your next question, not to this
4 one. Sorry about that.

5 Q No problem. I appreciate the 1:16PM
6 clarification.

7 So with respect to this NIA, if we look at
8 Paragraph 179, you talk about the ability of a user
9 to select a picture.

10 | Do you see that? 1:16PM

11 A As one example out of a list of examples.

12 Q Focusing on that example, let's assume
13 that the picture depicted something thematic like a
14 morning sunrise or something like that and the user
15 could select that picture and assign that picture to 1:17PM
16 a speaker group that was intended to be used in the
17 morning.

18 Would that satisfy the common theme
19 requirement of a zone scene?

20 A My understanding is a common theme 1:17PM
21 requirement is based on the court's order in the
22 partial summary judgment.

23 And specifically I state in Paragraph 178,
24 "As the court held in the summary judgment order, to
25 the extent a 'common theme' is required by the term 1:18PM

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1 alone. It's clearly outputting audio from the red 2:02PM

2 speaker. I just don't know what the other speaker is
3 doing.

4 Q I'll represent to you none of the other
5 speakers are playing audio, only the red speaker is 2:02PM
6 playing.

7 A So if the red speaker is playing back audio
8 individually, then based on that what I understand
9 from this hypothetical example, then the red
10 speaker -- well, I assume that what you're saying is 2:03PM
11 playing back audio individually from the red speaker
12 and, therefore, is operating in standalone mode in
13 this particular situation.

14 Q So if we turn to the second page, which is
15 another example, now the -- it's the same system and 2:03PM
16 the audio has been paused and you can see that the
17 Spotify app still shows the connection with the red
18 speaker in green. It now shows the play button
19 because the music paused. You can see that it's
20 paused at two minutes, seven seconds. 2:03PM

21 And then if you look over at the Google
22 Home app screenshot, you can also see that the red
23 speaker is now paused and the music is stopped at
24 that same point. There's one minute, 15 seconds
25 left and that's shown in both screenshots. 2:04PM

1 Do you see that? 2 : 04 PM

A I believe I do see what you're referring to.

3 Q Now, in your opinion, is that red speaker
4 still operating in standalone mode?

5 MR. KAPLAN: Objection, asked and 2:04 PM
6 answered.

7 THE WITNESS: I was just going to say that

I believe that's the same speaker you asked me
several times today about the pause case. And as I
said, I would have to know a little bit more about
what's happening internally when you pause in this
particular application and so -- in the Spotify
application and what does it do in terms of the
buffering and the queuing.

15 And so I have not dealt with this kind of 2:04PM
16 scenario, I have not had to deal with it and so I
17 don't have a conclusion at the moment on the fly.

18 BY MR. SMITH:

19 Q So what would you be looking for, what
20 would tell you if this speaker was operating in 2:05PM
21 standalone mode while being paused?

22 A Well, I mean, for example, I would say that
23 it's -- for instance, if -- I'm just going to say the
24 following: I would have to think about this situation
25 and I have not reached a conclusion at this point. 2:05PM

1 Q Okay. Now, if we look back at Claim 1 of 2:05PM
2 the '966 patent and we look at that Limitation 1.11,
3 so the very last limitation.

4 A Yes.

5 Q Now, your opinion is that when the first 2:06PM
6 zone player is operating in accordance with the
7 first predefined group such that the first zone
8 player is configured to coordinate with at least the
9 second zone player to output media in synchrony, is
10 it your opinion that that requires a group to be 2:07PM
11 actually playing the audio in synchrony?

12 A The answer is yes. I think I referred
13 several times today to Claim 2 which says it pretty
14 emphatically because it says if you are not playing
15 back in synchrony, I'm paraphrasing using my own 2:08PM
16 language, then you do not -- then you're not
17 configured to coordinate to output media in synchrony.

18 And so I think that is clear from both the
19 use of configured throughout the specification in
20 the abstract and in the claims including, for 2:08PM
21 example, Claim 2, it makes it clear that configured
22 as used in this context means that you must actually
23 be playing back music in synchrony.

24 Q Now, if we look at Limitation 1.6 of
25 Claim 1 of the '966 patent, and do you see the 2:09PM

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1 limitation about causing storage of the first zone 2:09PM

2 scene?

3 Do you see that?

4 A Yes, I do.

5 Q Is it your opinion that that storage must 2:09PM
6 be persistent storage or could it be satisfied by
7 dynamic storage?

8 MR. KAPLAN: Object to form.

9 BY MR. SMITH:

10 Q While you're thinking about it, let me 2:12PM
11 just rephrase the question a little bit here.

12 Is it your opinion that the causing
13 storage element requires persistent storage?

14 A So if you look, for example, at
15 Paragraph 117 of Exhibit 1351, I point to the fact 2:13PM
16 that -- beginning in the sixth line from the bottom of
17 the page of Page 62, I note that [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED] 2:13PM

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED] 2:14PM

1 [REDACTED] 2 :14PM

2 [REDACTED]

3 [REDACTED]

4 And then I go on from there. So if one
5 were to take the plain and ordinary meaning of the 2 :14PM
6 word "causing storage of the first zone scene," I
7 would say that a person -- a POSITA would generally
8 associate storage with persistent storage and
9 nonvolatile memory or persistent memory.

10 I think that that is the common way in 2 :14PM
11 which people use -- for example, when you buy a
12 computer, a PC, a laptop, you're given a number of
13 different parameters such as the CPU speeds, the
14 bandwidth, storage capacity, memory capacity. So
15 memory is usually volatile, storage is nonvolatile. 2 :15PM

16 I am aware that the spec sometimes talks
17 about memory, for example, memory 206 for saving
18 configuration files.

19 But my view is that in that context, it's
20 using memory as saving in way that could be used in 2 :15PM
21 the future and, therefore, it would have to be
22 persistent storage or nonvolatile storage in my
23 opinion.

24 I think the court's order for the partial
25 summary judgment, if my memory is correct -- I can 2 :15PM

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1 go back, I have the order here -- it talks about the 2:16PM
2 fact that you want to save the zone scene for future
3 use and if you're using volatile storage, there is
4 no future use, it's only available while you're
5 actually engaged with the computing device. 2:16PM

6 Q Would you agree that you can store
7 information in volatile memory?

8 A I would say it depends on the context. In
9 this context the answer would be probably no.

10 Q So in this context you're saying you 2:16PM
11 cannot store information in volatile memory?

12 A I would say in general, no. People in the
13 field and actually not just in this field but in the
14 broad field of electrical engineering, they are do not
15 talk about storage in nonvolatile memory because 2:16PM
16 anything you put in nonvolatile memory, you turn the
17 device off, you turn it back on and it's done.

18 So if you want to have the ability to have
19 a summer zone scene, and if you were to turn your
20 speaker off and turn it back on in summertime, there 2:17PM
21 would not be any summer zone scene waiting for you
22 because it's stored in non -- in volatile memory.

23 The only way to maintain it is to actually
24 store it and usually the word "store," with rare
25 exceptions, is used to mean store in persistent 2:17PM

1 I, LYNNE M. LEDANOIS, a Certified
2 Shorthand Reporter of the State of California, do
3 hereby certify:

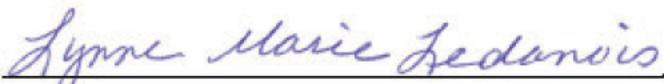
4 That the foregoing proceedings were taken
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10 Further, that if the foregoing pertains to
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12 Case, before completion of the proceedings, review
13 of the transcript [x] was [] wasn't requested.

14 I further certify I am neither financially
15 interested in the action nor a relative or employee
16 of any attorney or party to this action.

17 IN WITNESS WHEREOF, I have this date
18 subscribed my name.

19 Dated: February 7, 2023

22 
23

24 LYNNE MARIE LEDANOIS

25 CSR No. 6811